

Message Text

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53

ACTION AEC-11

INFO OCT-01 EUR-25 NEA-10 IO-13 ISO-00 SCI-06 ACDA-19

CIAE-00 INR-10 L-03 NSAE-00 NSC-10 RSC-01 SCEM-02

DODE-00 DRC-01 /112 W

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R 211145Z SEP 73

FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC 6898

USMISSION IAEA VIENNA

AMEMBASSY BONN

USMISSION EC BRUSSELS

C O N F I D E N T I A L NEW DELHI 11079

E.O. 11652: N/A

TAGS: IAEA, TECH, ESTC

SUBJ: INDIA'S UNAUTHORIZED TRANSFER OF US NUCLEAR

MATERIAL TO FRG

FOLLOWING TEL FROM BOMBAY 1869 REPEATED YOU:

QUOTE

R 210455Z SEP 73

FM AMCONSUL BOMBAY

TO AMEMBASSY NEW DELHI 8185

N L C O N F I D E N T I A L BOMBAY 1869

E.O. 11652 N/A

TAGS:

SUBJECT: INDIA'S UNAUTHORIZED TRANSFER OF US NUCLEAR MATERIAL

TO FRG

REF: STATE 183319

1. ACCOMPANIED BY PINAJIAN, I CALLED ON SETHNA SEPT 20 TO DISCUSS

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POINTS MADE REFTEL. DAE EXTERNAL AFFAIRS VAZ SAT IN WITH SETHNA.

IN LONG AND FRIENDLY DISCUSSION, SETHNA SAID HE "HAS NO PROBLEM WITH ARTICLE VII" "ACCEPTS" PRINCIPLE OF PRIOR AGREEMENT AND DOES NOT RPT NOT TAKE ISSUE WITH IT. I RETURNED TO THIS PARTICULAR POINT SEVERAL TIMES DURING CONVERSATION AND PINAJIAN AND I BOTH LEFT HIS OFFICE CONVINCED SETHNA ACCEPTS ARTICLE VII AS WRITTEN.

2. HOWEVER, SETHNA CONTINUED HE CONSIDERS SECTION X 9 OF TRILATERAL SOMEWHAT INCONSISTENT WITH ARTICLE VII AND HE ASKED IF WE MIGHT, FOR SAKE OF CONSISTENCY AND EXPEDIENCY COMBINE THEM PROCEDURALLY. FOR EXAMPLE HE ASKED, IF INDIA MUST REQUEST PRIOR AGREEMENT OF US TO TRANSFER MATERIALS, MIGHT INDIA SEND COPY OF ITS REQUEST TO AEC TO IAEA. WHICH WOULD SERVE AS NOTICE OF INTENT TO MOVE MATERIALS. WHEN US AGREED-- ASSUMING IT WOULD--COULD WE NOT SEND COPY OF LETTER SIGNIFYING AGREEMENT TO IAEA, THUS SATISFYING REQUIREMENT FOR JOINT NOTIFICATION. FUTURE POSSIBLE AREA OF MISUNDERSTANDING INDICATED BY INDIANS APPARENT BELIEF THAT TRILATERAL AGREEMENT OF US/INDIA/IAEA SUPERCEDES BILATERAL US/INDIA AGREEMENT SINCE "THE BILATERAL WAS TO BE IN EFFECT UNTIL THE TRILATERAL COULD BE WORKED OUT AND THEN THE IAEA TAKES OVER" THIS WAS REPEATED TWICE BY SETHNA AND ONCE BY VAZ.

3. SIMILARLY SETHNA SAID, HE IS SOMEWHAT CONCERNED ABOUT MODALITIES OF NOTIFICATION FOR A) TRANSFER OF MATERIALS BELONGING TO INDIA FROM ONE POINT TO ANOTHER WITHIN CONTINENTAL US (FOR EXAMPLE FROM USAEC TO NFS) B) TRANSFER OF MATERIALS BELONGING TO INDIA FROM POINT WITHIN CONTINENTAL US TO A THIRD COUNTRY (FOR EXAMPLE GERMANY, OR C) TRANSFER OF MATERIALS BELONGING TO INDIA FROM ONE POINT WITHIN INDIA TO ANOTHER. IN THIS LATTER CASE HE SPECIFICALLY CONCERNED WITH RECEIPT OF MATERIAL IN FOR EXAMPLE BOMBAY AND THE TIME LAPSE BEFORE IT ARRIVES IN HYDERABAD FOR WEIGHING AND ASSAY. THIS POINT HAD BEEN BROUGHT UP PREVIOUSLY BY PINAJIAN IN EARLIER DISCUSSION ON DELAYS INCURRED IN SIGNING OF JOINT NOTIFICATION FORM. HE ASKED WHETHER DEPT MIGHT SUPPLY GUIDANCE ON THIS POINT AS WELL AS POINT 2 ABOVE BOTH TO BE INCLUDED IN EXCHANGE OF CORRESPONDENCE(SEE BELOW)
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4. SEEMING TO ANTICIPATE OUR SUGGESTION SETHNA SAID THESE POINTS OF DIFFERENCE SHOULD BE SET FORTH IN LETTER FROM CONGEN TO HIM WHICH HE WILL ACKNOWLEDGE. THIS IS BEST WAY HANDLE THIS PROBLEM HE SAID AND SPELLING OUT INTERPRETATIONS AND PROCEDURES WILL LEAVE NOTHING TO DOUBT IN THE FUTURE. HE HOPED WE COULD DISCUSS ANY DIFFICULTIES WHICH MIGHT ARISE AND SMOOTH OUT ANY ROUGH SPOTS BEFORE WE SEND LETTER.

5. WE LEFT FOR THEIR CONVENIENCE WRITTEN INSTRUCTION RELATING TO THE UNAUTHORIZED TRANSFER OF 383 KGS TO FRG, THE 7 TON SHIPMENT TO FRG, THE USE OF MB-10 FORMS FOR FUTURE TRANSFER OF NUCLEAR MATERIAL SUPPLIED BY US TO INDIA TO A THIRD COUNTRY AND THE UTILIZATION OF FOOTNOTE NUMBER 3 OF IAEA FORM N-36 ALONG WITH COMPLETETION OF US/IN 73-3.

6. WE WILL DRAW ON REFTTEL FOR LANGUAGE RE PRIOR AGREEMENT BETWEEN US AND INDIA ON TRANSFER. BUT HOPE DEPT CAN FURNISH LANGUAGE TO BE USED RE POINTS RAISED PARA 2-3 WITHIN NEXT FEW DAYS. SETHNA IS LEAVING TOWN SEPT 28 FOR SEVERAL DAYS AND INDICATED DESIRE HAVE ALL THIS NAILED DOWN BEFORE HE GOES.

7. COMMENT: THROUGHOUT MEETING SETHNA WAS RELAXED AND COOPERATIVE AND ADMITTED HE UNDERSTANDS WHY INDIA'S INTERPRETATION OF ARTICLE VII UNACCEPTABLE TO US. HE AGAIN MENTIONED THAT MEMBER OF HIS STAFF "HAD GOOFED" AND INDICATED HE HAD EXPECTED REACTION FROM WASHINGTON. HE IS ANXIOUS "CLEAN UP WHOLE MESS" AND HOPES WE CAN INCLUDE ALL POINTS DISCUSSED ABOVE IN ONE LETTER.

MCCASKILL
UNQUOTE
SCHNEIDER

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